Motor · Tax II

1952.

File No. 52 (N)

Legal Dept.

B BRANCH

Subject:— Notifications under the Bombay Motor Vehicles Tax Act, 1935

P-6/E

File No. Motor Tax II/52 (N)

Gen. 134

4487-B

Legal Department.

It is difficult to follow the argument of the S.T.O. at p. 11 ante. If a motor vehicle is actually used in a manner so as to cause the vehicle to become a vehicle in respect of which a higher tax is payable, such higher tax can be legitimately imposed in respect of such vehicle although no additional declaration has been made under section 6(2) of the Act showing the nature of such use. For example, if a private car is used as a taxi plying for hire, additional tax can be recovered in respect of such car although no additional declaration has been made showing its proposed use as a taxi. No question of regularising such use by accepting the additional tax arises. However, if a person uses a car for a different use which subjects it to the imposition of a higher rate of tax without making the additional declaration as required by sub-section (2) of section 6 of the Act, he shall be liable to prosecution under section 12 of the Act.

Id/- J.R.D.
26/4

Additional Secretary to Government.

U.R. to H.D., No. 6565,
dated the 28th April 1952.

JPE.27/6/56.4c.

Legal Department.

A revised draft notification is sent herewith.

2. Since the vehicles owned by the Bombay Electric Supply and Transport Undertaking are now the property of the Bombay Municipality it is necessary to exclude these vehicles from the purview of entry (4) of the G.N.,H.D.No.6832/3-XV, dated the 26th June 1936, and to delete item (14).

3. Motor vehicles exempted under entry (14) in the Schedule to the G.N., H.D. No.6832/3-XV, dated the 24th June 1936, were the vehicles used solely for tramway service; while the vehicles exempted under G.N's.H.D. No.1175/5, dated the 6th October 1947 and No.1175/5-E , dated the 1st October 1948 were the vehicles used exclusigely for the purpose of maintaining the transport services in the City of Bombay. Since all these vehicles, proposed to be exempted, are to be included in one entry, reference only to the 'tramway service' as proposed in the H?D. draft notification at p.43 antex would not be appropriate. In the revised draft reference is accordingly made to the 'transport services in Greater Bombay' which expression would also include the 'tramway service' in Greater Bombay.

4. Item (5) in the H.D. notfication No.6832/3-XV dated the 24th June 1936, would apply to the Bombay Municipal Corporation, it being also a local authority. But as the two items have been shown one after the other, the intention

appears....

appears to be that item (4) should apply to the Bombay Municipal Corporation and item (5) should apply to other local authorities. To make the intention clear, item (5) has also now been amended by inserting the word 'other' after the word 'any'.

Id/- R.D.
~~J.R.~~ 23/5

Additional Deputy Secretary to Government.

U.R. to H.D., No. 8592,

dated the 22nd May 1952.

JPE.27/6/56.4c.

Legal Department.

In England an amending Bill for the most part merely refers to the Act intended to be amended and then proceeds to lay down the new rules to be enacted. In fact, it amends legislation as if it were a part of the common law. In India a more convenient practice is followed. The required amendments are drafted for incorporation into the original Act and forms such as follows are used, namely, "Section .....shall be substituted for the following section, namely, 'or Insert the following words between ..... and ..... " etc. Consequently, section 4 of the Bombay Motor Vehicles Tax (Aemendment) Act, 1952, substituted a new schedule for Schedule I under the original Act. This Schedule as indeead the prrevious Schedule is governed by section 3 of the original Act of 1935. Therefore the proviso to section 4 of the Act of 1952 must also be read as incorporated with the new Schedule into the original Act, and aconsequnextly, 'the prescribed manner' in this provisio means prescribed by the rules as defined in section 2(5) of the original Act. Therefore, all the consequences of changing the rules must necessarily follow. It is for this reason that the definitions have not been enunciated againk in the new Act. As these amendments are incorporated into the old Act, all the definitions of thes old Act necessari apply to the words or sections incorporated or substituted. Consequently, there is no escape from following the method laid down in the adgice

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given by this Department in No. 15309/B, dated the 13th September 1952 if it is inteded to prescribe a particular manner for payment of the new tax. If the manner of payment is not to be changed, then the desired result can be effected by the notification sent herewith.

Id/- J.R.D.
22/9

Additional Deputy Secretary to Government.

U.R. to H.D., No. 15604/B,
dated the 22nd September 1952.

JPS.27/6/55.4c.

Legal Department.

Schedule I and the proviso thereto substituted by the Bombay Act XVI of 1952 mrege in the principal Act; and the word 'prescribed' used in the said proviso will xhxrxfxrx have to be xxdxxixxthxxfxrmxxfxrxixx xxdx given the meaning as defined in section 2(5) of the principal Act. The necesary provision will therefore have to be made in the form of rules made under section 20 of the principal Act and all the requirements provided in that section will apply to such a rule i.e. it will be subject to the conditionx of previous publication and will have to be laid before each of the Houses of the State Legislature under sub-section (4) df section 20 of the Act.

2. It is observed that the manner in which the additional tax has to be paid has not been specified in the H.D. dnaft. The rule is meant for specifying such manner. It is presumed that the manner specified in Rule 10 of the Bombay Motor Vehicles Tax Rules, 1940 is to apply to the payment of the additional tax. H.D. may decide this point and amend the ap ended rule, if necessary.

Id/- R.P.J.

Deputy
Additional Secretary to Government.

U.R. to H.D.No. 15309/B,

dated the 18th September 1952.

JPE.27/6/56.4c.